Restoration / Recall App. 1011 / 06
Delay Cond. App. 1012 / 06
In
Civil Contempt Petition No. 193 of 2005

Hon. P.C. Pant, J.

This is restoration application along with delay condonation application moved on behalf of the applicant-petitioner to restore the Contempt Petition No. 193 of 2005, which was dismissed on 25.08.2005 and to condone the delay in filing the restoration application.

Heard.

Learned counsel for the applicant argues that due to mistake the counsel cannot check that the petition was listed on said date.

On perusal of the contempt petition, it is found that since it was not against any person named, as such, contempt petition was not maintainable against M/s Uptron India Ltd.

In the above circumstances, both the applications are dismissed. However, the petitioner is at liberty to move fresh contempt petition against the person who has committed wilful default of the order dated 30.12.2003 passed in Writ Petition No. 2487 (M/S) of 2001.

(P.C. Pant, J.)

Dt. 14.02.2006
HN

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Miscellaneous Application No. 6152 of 2005

In

Civil Contempt Petition No. 193 of 2005

Ajay Durga
C/o H.S. Jauhari,
A-50 Shivalik Nagar,
Haridwar (Uttaranchal) …… Petitioner

Versus

M/s Uptron India Limited
10, Ashoka Marg, Lucknow
through its Managing Director …….. Respondent

None for the petitioner.
Mr. D.S. Patni, Advocate for respondent.

Hon'ble P.C. Pant, J.

None present of behalf of the applicant-petitioner. Mr. D.S. Patni, Advocate is present for the respondent.

2. In this contempt petition, the contemnor has not been impleaded by name, rather only M/s Uptron India Limited has been impleaded through its Managing Director. As per rules such contempt petition is not maintainable, unless, the person against whom wilful disobedience of the Court's order is complained is impleaded by name.

3. This contempt petition appears to have been filed alleging contempt of this Court's order dated 30.12.2003, passed in Writ Petition No. 2487 (M/S) of 2001, whereby the writ petition was dismissed and the petitioner (M/s

Uptron India Ltd.) was directed to make payment of balance salary, leave encashment and payment of gratuity to the respondent No. 2.

4.) In the counter affidavit filed on behalf of respondent-company, in its para 6 and 7, it has been stated that the review application is already pending in the light of the Apex court's order dated 25.10.1999, passed in S.L.P. No. 2866 of 1999. It has further been stated that as per the directions of the Apex court, the payment is to be made by M/s Uptron India Limited only on receiving the funds from the State Government, which has not been received so far, as the said Company has been declared a sick company by the Board for Industrial and Financial Reconstruction (B.I.F.R.), as such, the Company has no funds for payment of outstanding salary dues to its employees.

5) In the circumstances, it cannot be said that there is any wilful disobedience on the part of the respondent. Accordingly, in view of the aforesaid facts, this contempt petition is liable to be dismissed and the same is dismissed. The notices issued to the respondent shall stand discharged. Accordingly, the application also stands disposed of.

(P.C. Pant, J.)

Dt.: 25th August, 2005.
H.Negi